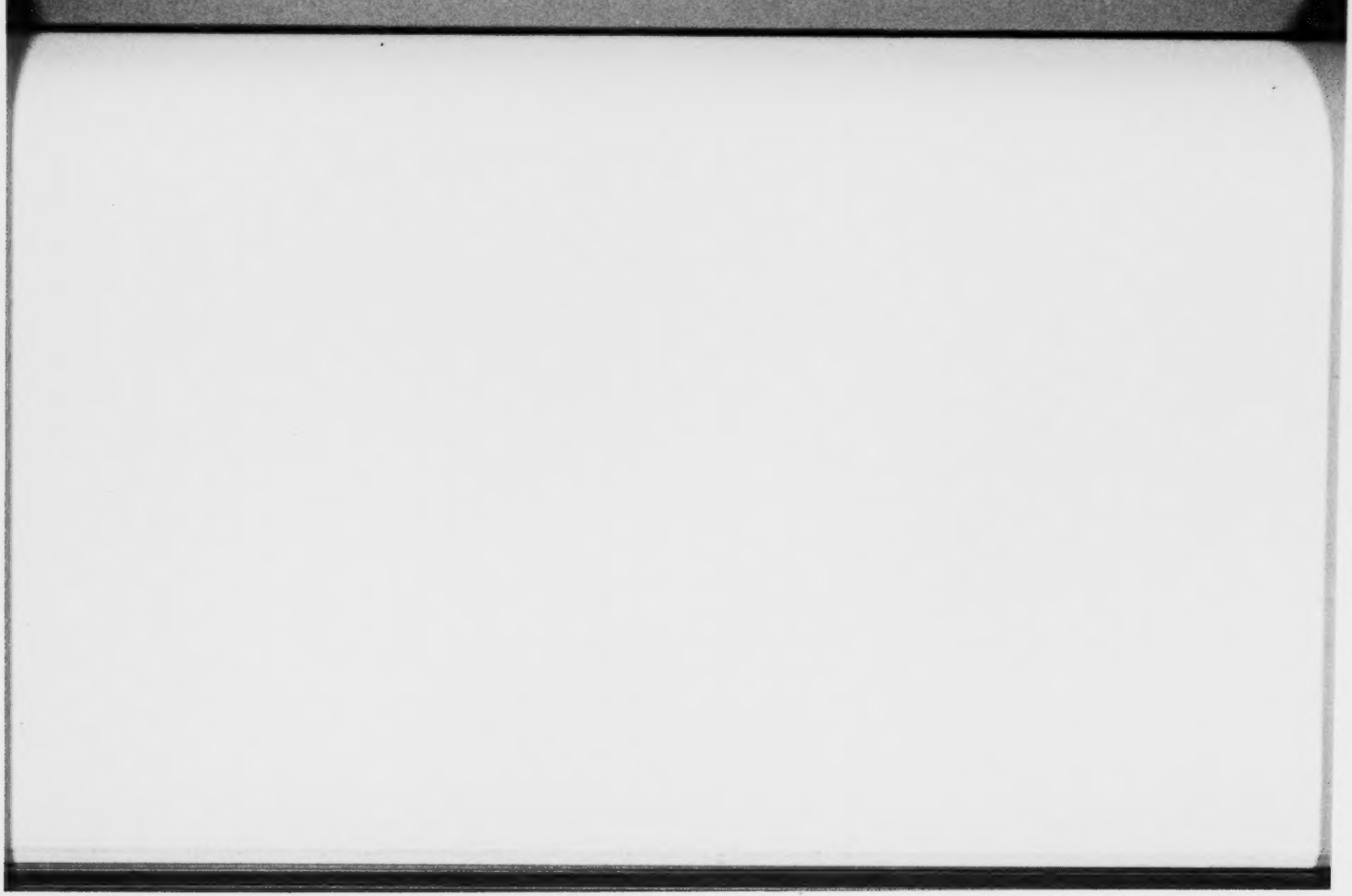

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JUL 10 1942
CHARLES ELMORE CROPLEY
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1942

No. 138

ALEXANDER J. BOCZ,
Petitioner,

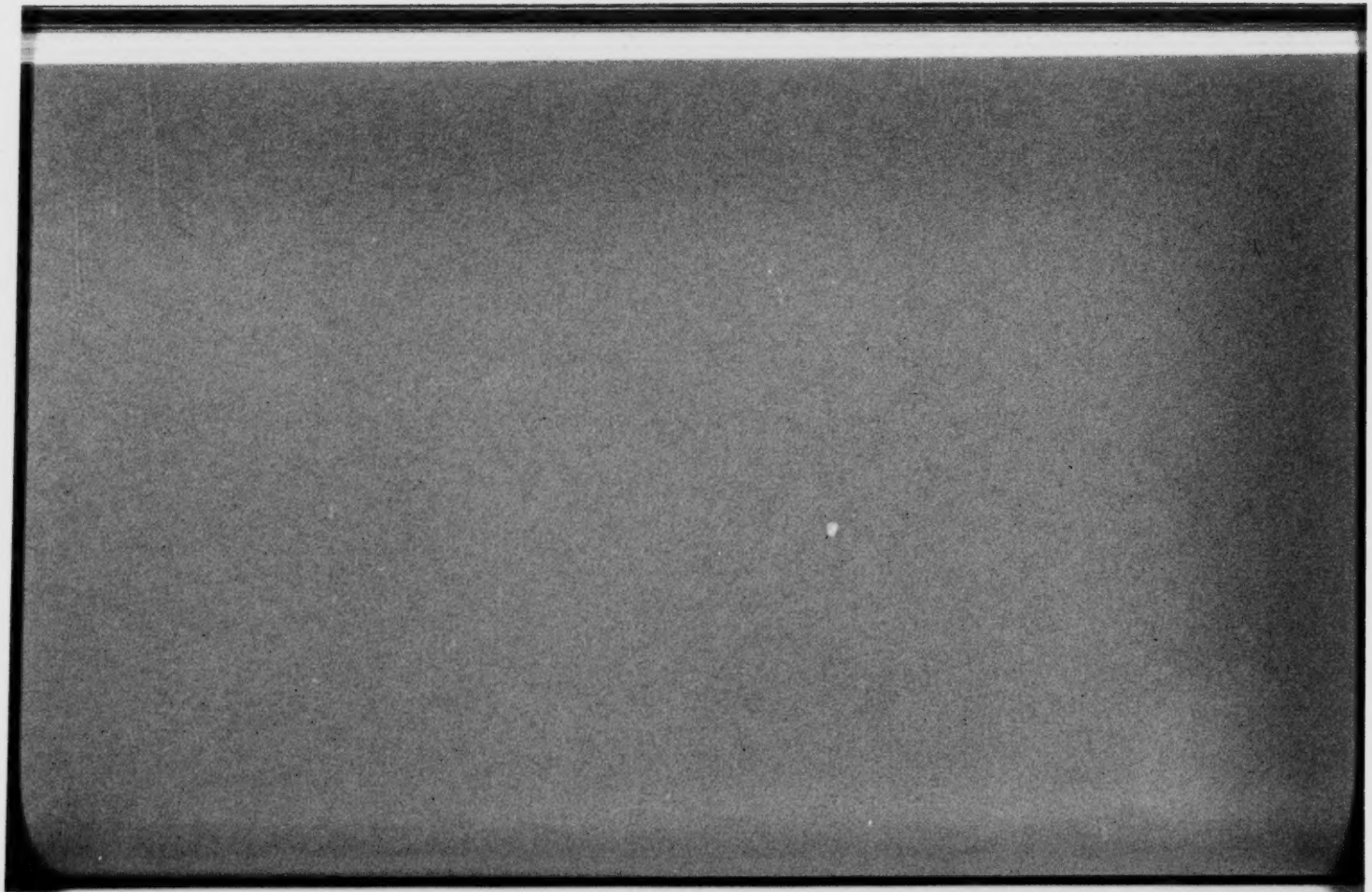
vs.

HUDSON MOTOR CAR COMPANY,
a Michigan Corporation;
GENERAL MOTORS CORPORATION,
a Corporation of Delaware;
FORD MOTOR CAR COMPANY,
a Corporation of Delaware;
BOHN ALUMINUM & BRASS CORPORATION,
a Michigan Corporation;
LONG MANUFACTURING COMPANY,
a Michigan Corporation;
REO MOTOR CAR COMPANY,
a Michigan Corporation;
HUPP MOTOR CAR COMPANY,
a Michigan Corporation;
PACKARD MOTOR CAR COMPANY,
a Michigan Corporation;
CHRYSLER CORPORATION,
a Corporation of Delaware,
Respondents.

BRIEF OF RESPONDENT PACKARD MOTOR CAR COMPANY ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT

HENRY E. BODMAN,
1400 Buhl Building,
Detroit, Michigan,
Attorney for Respondent,
Packard Motor Car Company.

BEARDON-PARSHALL CO.



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The order of the court below to review which certiorari is sought by this petition is reported in *Bocz v. Hudson Motor Co., et al.*, 126 Fed. 2nd 465.

FACTS

(NOTE: Figures in parenthesis refer to pages in the record below.)

On June 16, 1942 a notice was served on the attorney for the respondent PACKARD MOTOR CAR COMPANY showing that a petition for writ of certiorari in the above entitled cause had been filed with this Court on June 10, 1942. At the same time a document designated as "Copy of Petition and Brief" was also served on him. No copy of the printed record below was served as required by Rule 38 (3) but it is assumed that petitioner has filed the requisite ten copies with the Clerk of this Court. The cause as to which this writ is sought is number 8875 of the Circuit Court of Appeals for the Sixth Circuit, which is an appeal from an order entered in equity cause number 6287 in the District Court of the United States for the Eastern District of Michigan, Southern Division, entitled as above. This matter is called to the Court's attention since petitioner refers to alleged errors in other cases to which this respondent was not a party and which are not in any way here involved. Apparently, he desires relief in those matters also (Petition pages 14 and 15). The bill of complaint, which occupies 192 pages of the printed record below, was filed on March 27, 1934; it is utterly unintelligible, prolix and full of irrelevancies and scandal. Motions to dismiss for this and other reasons were filed by all defendants. The hearing on these motions was held on November 18, 1940 (237ff) and on the same day the following order was entered:

> "This cause coming on to be heard on defendants several original and supplemental motions to dismiss the complaint herein on several grounds, in-

cluding misjoinder and that the complaint does not conform to the fundamental rules of pleading in that it is confused, indefinite, uncertain, profuse, prolix, redundant and unintelligible, it is hereby ordered:

1. That the several motions to dismiss are granted and that the compaint herein is dismissed as to all defendants, provided,

That leave, however, is hereby granted to plaintiff to file within thirty days hereof an amended complaint in conformity with the requirements of Rule 8 of the Federal Rules of Civil Procedure containing 'a short and plain statement of the claim showing that the plaintiff is entitled to relief' (Rule 8-a (2)) and in which 'each averment shall be simple, concise and direct' (Rule 8-e (1)) and upon failure of plaintiff so to do, the bill of complaint herein shall stand dismissed" (R. p. 236).

Plaintiff made no attempt to amend his bill, but instead appealed to the Circuit Court of Appeals of the Sixth Circuit. The appeal was heard on February 10, 1942 and on February 11, 1942 the order appealed from was affirmed, *Bocz vs. Hudson Motor Co., et al.*, 126 Fed. 2nd 465. He now seeks a writ of certiorari presumably to reverse this order of affirmance.

ARGUMENT

There is no question here involved proper for review by writ of certiorari. The District Court ordered petitioner to file an intelligible bill of complaint, and gave him ample time to do so. He made no effort to obey this order but instead elected to appeal. All that is involved is a question of practice and the Court below neither departed from the accepted and usual course of judicial proceedings, nor so far sanctioned such a departure by a lower Court as to call for an exercise of this Court's power of supervision. A glance at the bill of complaint will make the propriety of the action of the Circuit Court of Appeals and of the District Court completely obvious. This bill is prolix and unintelligible; it is filled with irrelevant matter; it contains malicious and libelous statements directed at members of the bar of this Court (see especially record pages 59 and 76) which, if made by an attorney would doubtless subject him to severe admonishment. It is so utterly unintelligible that the preparation of an answer to it would be an almost impossible task, and one which should not be foisted upon counsel. Even after several perusals of the bill, we have been unable to gather its meaning or to learn just what charges are directed against the Packard Motor Car Company.

The following quotation from the prayer (82) is typical of the entire bill:

> "That defendants shall name the party or parties, who financed and how much money was spent by them to make the world famous flights of Graf Zeppelin Airship success with the sample of plaintiff's Harmonic Balancer which was stolen from

> him in February, 1927, on which his prior claims were stolen out of the United States Patent Office in June, 1928, and his home was burglarized in December, 1924, by patent spies to steal his sample, Exhibit 4, to cover this treason said party or parties made a secret insanity chart against him which prevents him from serving our war department with his inventions, Exhibit 17-b since 1924."

Making every allowance for the fact that petitioner is not a lawyer, his bill is inexcusable. He has been treated with the utmost forbearance and patience and has been given every opportunity to assert any claim he may think he has. He has refused without any valid reason to amend his bill so that it can be understood. The action of the Circuit Court of Appeals which he seeks to have reviewed is obviously correct. But in any event no question for review on certiorari is presented to this Court.

HENRY E. BODMAN,
Attorney for Respondent,
Packard Motor Car Company.